

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
JAVIER SILVA,

INDEX NO:
DATE PURCHASED:

Plaintiff,

-against-

THE CITY OF NEW YORK and THE NEW
YORK CITY POLICE DEPARTMENT

SUMMONS

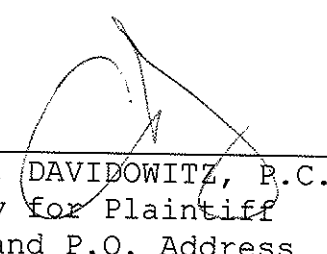
Plaintiff designates
NEW YORK COUNTY
The basis of venue is
SITUS OF THE INCIDENT
240 West 35th Street
New York, New York

Defendants.
-----X

TO THE ABOVE-MENTIONED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

DATED: New York, New York
April 11, 2014


CRAIG L. DAVIDOWITZ, P.C.,
Attorney for Plaintiff
Office and P.O. Address
450 Seventh Avenue, Suite 1508
New York, New York 10123
Tel: (212) 378-2051
Fax: (212) 378-2054

Defendants' Addresses:

THE CITY OF NEW YORK

100 Church Street

New York, New York 10007

THE NEW YORK CITY POLICE DEPARTMENT

100 Church Street

New York, New York 10007

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----x
JAVIER SILVA,

INDEX NO:
DATE PURCHASED:

Plaintiff,

**VERIFIED
COMPLAINT**

-against-

THE CITY OF NEW YORK and THE NEW YORK
CITY POLICE DEPARTMENT,

Defendants.
-----x

Plaintiff, complaining by his attorney, **CRAIG L. DAVIDOWITZ,**
P.C., respectfully alleges:

AND FOR A FIRST CAUSE OF ACTION

1. That on July 31, 2013 when plaintiff's case was dismissed and on April 25, 2013 at approximately 1:00 P.M. when plaintiff was released from custody resulting from an arrest on April 24, 2013 at approximately 7:00 P.M. In the location known as Café Nunez located at 240 West 35th Street, City and State of New York, where plaintiff was arrested by NYPD police officers for alleged criminal trespassing (Penal Code 140.10), then subsequently taken to Midtown South Police Precinct located at 357 West 35th Street, New York, New York and then subsequently taken to Central Booking at 100 Centre Street, New York, New York where plaintiff was held and released on April 25, 2013 at approximately 1:00 P.M.

2. That this action was commenced within one year and ninety days after said cause of action occurred, that within ninety days after said cause of action occurred, the plaintiff duly presented and filed with THE CITY OF NEW YORK, a duly verified statement of plaintiff's claims against the defendant showing in detail the injuries, and asking payment and adjustment of plaintiff's said claim, and that notice of the intention to commence such an action as the present stating the time when and place where the injuries were incurred or sustained was similarly presented to and filed with THE CITY OF NEW YORK and although more than thirty (30) days have elapsed since such presentation and filing, THE CITY OF NEW YORK, have neglected and refused to pay said claim. That a hearing pursuant to General Municipal Law Section 50-H was held December 2, 2013.

3. That this action was commenced within one year and ninety days after said cause of action occurred, that within ninety days after said cause of action occurred, the plaintiff duly presented and filed with THE NEW YORK CITY POLICE DEPARTMENT, a duly verified statement of plaintiff's claims against the defendant showing in detail the injuries, and asking payment and adjustment of plaintiff's said claim, and that notice of the intention to commence such an action as the present stating the time when and place where the injuries were incurred or sustained was similarly presented to and filed with THE NEW YORK CITY POLICE DEPARTMENT and although more than thirty (30) days have elapsed since such presentation and filing, THE NEW YORK CITY POLICE DEPARTMENT, have neglected and refused to pay said claim. That a hearing pursuant to General Municipal Law Section 50-H was held December 2, 2013.

4. That defendant, THE CITY OF NEW YORK is and at all times hereinafter mentioned was a municipal corporation organized and existing under the laws of the State of New York.

5. That defendant, THE NEW YORK CITY POLICE DEPARTMENT is and at all times hereinafter mentioned was a municipal corporation organized and existing under the laws of the State of New York.

6. That at all times hereinafter mentioned defendant, THE NEW YORK CITY POLICE DEPARTMENT, its servants, agents and/or employees employed police officers and other personnel, to work as representatives of the City of New York.

7. That on or about April 24, 2013, plaintiff, JAVIER SILVA, was lawfully present at the aforesaid location.

8. That on or about April 24, 2013, plaintiff, JAVIER SILVA, was taken into custody imprisoned and confined by defendant, THE CITY OF NEW YORK.

9. That on or about April 24, 2013, plaintiff, JAVIER SILVA, was taken into custody imprisoned and confined by defendant, THE NEW YORK CITY POLICE DEPARTMENT.

10. That on or about April 24, 2013, plaintiff, JAVIER SILVA, was taken into custody, imprisoned and confined by defendant, THE CITY OF NEW YORK, and it was the intention of defendant THE CITY OF NEW YORK to so confine the plaintiff and that plaintiff was conscious of such confinement and did not consent to such confinement and neither was such confinement privileged.

11. That on or about April 24, 2013, plaintiff, JAVIER SILVA, was taken into custody, imprisoned and confined by defendant, THE NEW

YORK CITY POLICE DEPARTMENT, and it was the intention of defendant THE NEW YORK CITY POLICE DEPARTMENT to so confine the plaintiff and that plaintiff was conscious of such confinement and did not consent to such confinement and neither was such confinement privileged.

12. That on or about April 24, 2013, plaintiff JAVIER SILVA, was handcuffed, taken into custody at the aforesaid location, and thereafter forced to enter a cell in the Midtown South Police Precinct by said officers, the plaintiff was detained and incarcerated with criminals and persons charged with crimes, to his shame and humiliation.

13. Plaintiff JAVIER SILVA was held in the custody of defendant THE CITY OF NEW YORK from April 24, 2013 to April 25, 2013.

14. Plaintiff JAVIER SILVA was held in the custody of defendant THE NEW YORK CITY POLICE DEPARTMENT from April 24, 2013 to April 25, 2013.

15. While plaintiff was held, defendant, THE CITY OF NEW YORK, failed to properly investigate the nature of the detainment and circumstances resulting from the improper search and seizure and false arrest, and as a result held plaintiff believing he violated applicable rules, laws and regulations.

16. While plaintiff was held, defendant, THE NEW YORK CITY POLICE DEPARTMENT, failed to properly investigate the nature of the detainment and circumstances resulting from the improper search and seizure and false arrest, and as a result held plaintiff believing he violated applicable rules, laws and regulations.

17. Plaintiff JAVIER SILVA remained imprisoned against his will, at all times conscious of such imprisonment until April 25, 2013 when he was released from prison.

18. Said imprisonment, detention and confinement was made and caused to be made by the defendant THE CITY OF NEW YORK without any justification, probable cause or excuse therefore and without any warrant or other process of any court directing or authorizing the imprisonment, detention or confinement of the plaintiff.

19. Said imprisonment, detention and confinement was made and caused to be made by the defendant THE NEW YORK CITY POLICE DEPARTMENT without any justification, probable cause or excuse therefore and without any warrant or other process of any court directing or authorizing the imprisonment, detention or confinement of the plaintiff.

20. That on or about April 24, 2013 up to and including April 25, 2013, the plaintiff was a victim of tortious conduct perpetrated by agents, servants, officers and or employees of the defendant, THE CITY OF NEW YORK, which tortious conduct consisted of negligence, false imprisonment, malicious prosecution, libel, slander, wrongful arrest, negligent and intentional infliction of emotional distress, negligent hiring and retention and violation of the plaintiff's civil rights.

21. That on or about April 24, 2013 up to and including April 25, 2013, the plaintiff was a victim of tortious conduct perpetrated by agents, servants, officers and or employees of the defendant, THE NEW YORK CITY POLICE DEPARTMENT, which tortious conduct consisted of negligence, false imprisonment, malicious prosecution, libel, slander, wrongful arrest, negligent and intentional infliction of emotional distress, negligent hiring and retention and violation of the plaintiff's civil rights.

22. As a result of the aforesaid tortious conduct, plaintiff sustained serious personal injury, inconvenience, mental anguish, humiliation, damages and losses, both physical and psychological.

23. At the aforesaid time and place, and at all times pertinent to this action, the individuals who committed the aforesaid tortious conduct that injured the plaintiff were agents, servants, officers and or employees of the defendant, THE CITY OF NEW YORK and acting within the scope of their employment duties for THE CITY OF NEW YORK.

24. At the aforesaid time and place, and at all times pertinent to this action, the individuals who committed the aforesaid tortious conduct that injured the plaintiff were agents, servants, officers and or employees of the defendant, THE NEW YORK CITY POLICE DEPARTMENT and acting within the scope of their employment duties for THE NEW YORK CITY POLICE DEPARTMENT.

25. At the aforesaid time and place, and at all times pertinent to this action, the individuals who committed the aforesaid tortious conduct that injured the plaintiff were acting within the scope of their apparent authority as Police Officers.

26. At the aforesaid time and place and at all times pertinent to this action, the aforesaid tortious conduct that injured the plaintiff is imputable to THE CITY OF NEW YORK and under the doctrine of respondent superior.

27. At the aforesaid time and place and at all times pertinent to this action, the aforesaid tortious conduct that injured the plaintiff is imputable to THE NEW YORK CITY POLICE DEPARTMENT under the doctrine of respondent superior.

28. The tortious conduct that was committed by the defendant, THE CITY OF NEW YORK, was egregious and oppressive and characterized by malicious or wantonness justifying the imposition of punitive damages therefore.

29. The tortious conduct that was committed by the defendant, THE NEW YORK CITY POLICE DEPARTMENT, was egregious and oppressive and characterized by malicious or wantonness justifying the imposition of punitive damages therefore.

30. The imposition of punitive damages on the defendant, THE CITY OF NEW YORK, for the egregious tortious conduct of the defendant's employees is justified on the grounds that the defendant, THE CITY OF NEW YORK authorized and ratified the conduct and that the defendant was reckless or wanton in retaining and hiring the employees who committed the tort after knowledge of the employees' proclivities to engage in such conduct.

31. The imposition of punitive damages on the defendant, THE NEW YORK CITY POLICE DEPARTMENT, for the egregious tortious conduct of the defendant's employees is justified on the grounds that the defendant, THE NEW YORK CITY POLICE DEPARTMENT authorized and ratified the conduct and that the defendant were reckless or wanton in retaining and hiring the employees who committed the tort after knowledge of the employees' proclivities to engage in such conduct.

AS AND FOR A SECOND CAUSE OF ACTION

32. The plaintiff repeats, reiterates and realleges each and every paragraph numbered 1 through 31 inclusive as if more fully set forth at length herein.

33. That the defendant THE CITY OF NEW YORK, in the absence of probable cause for criminal proceedings against the plaintiff JAVIER SILVA and with actual malice, commenced and continued with the criminal proceedings against the plaintiff, which proceedings were terminated in favor of the plaintiff.

34. That the defendant THE NEW YORK CITY POLICE DEPARTMENT, in the absence of probable cause for criminal proceedings against the plaintiff JAVIER SILVA and with actual malice, commenced and continued with the criminal proceedings against the plaintiff, which proceedings were terminated in favor of the plaintiff.

35. That at the aforesaid time and place, and at the times pertinent hereto, the plaintiff was a victim of tortious conduct perpetrated by agents, servants, officers and or employees of the defendant, THE CITY OF NEW YORK, which tortious conduct consisted of false and wrongful imprisonment, wrongful detainment in custody, malicious prosecution, negligent hiring and retention and violation of the plaintiff's civil rights.

36. That at the aforesaid time and place, and at the times pertinent hereto, the plaintiff was a victim of tortious conduct perpetrated by agents, servants, officers and or employees of the defendant, THE NEW YORK CITY POLICE DEPARTMENT, which tortious conduct consisted of false and wrongful imprisonment, wrongful detainment in custody, malicious prosecution, negligent hiring and retention and violation of the plaintiff's civil rights.

37. That at the aforesaid time and place, and at the times pertinent hereto, the plaintiff was victim of negligence on the part of the agents, servants, officers and or employees of the defendant, THE CITY OF NEW YORK which included lodging a baseless complaint against the plaintiff, false imprisonment, wrongful imprisonment, wrongful detainment in custody, negligent and intentional infliction of emotional distress, all without probable cause or reasonable basis, in failing to prevent or aid in preventing the false and unfounded nature of criminal allegations against the plaintiff, despite being aware of same and in otherwise carelessly and improperly exercising their authority and power.

38. That at the aforesaid time and place, and at the times pertinent hereto, the plaintiff was victim of negligence on the part of the agents, servants, officers and or employees of the defendant, THE NEW YORK CITY POLICE DEPARTMENT which included lodging a baseless complaint against the plaintiff, false imprisonment, wrongful imprisonment, wrongful detainment in custody, negligent and intentional infliction of emotional distress, all without probable cause or reasonable basis, in failing to prevent or aid in preventing the false and unfounded nature of criminal allegations against the plaintiff, despite being aware of same and in otherwise carelessly and improperly exercising their authority and power.

39. As a direct and proximate cause of the negligence described above the plaintiff sustained serious personal injury, inconvenience, mental anguish, humiliation, damages and losses, both physical and psychological.

40. That at all times pertinent hereto, the individuals whose negligence caused the plaintiff's injuries as described herein were employed by the defendant, THE CITY OF NEW YORK in the capacity of agents, servants, officers and or employees.

41. That at all times pertinent hereto, the individuals whose negligence caused the plaintiff's injuries as described herein were employed by the defendant, THE NEW YORK CITY POLICE DEPARTMENT in the capacity of agents, servants, officers and or employees.

42. The defendants' employees were acting in the scope of their employment, under the defendants' control and in furtherance of the defendants' interest at the time of their negligence which caused the plaintiffs injuries.

AND FOR A THIRD CAUSE OF ACTION

43. The plaintiff repeats, reiterates and realleges each and every paragraph numbered 1 through 42 inclusive as if more fully set forth at length herein.

44. That on or about April 24, 2013, the defendant, THE CITY OF NEW YORK hired the agent(s), servant(s), officer(s), and or employees who engaged in the aforesaid tortious conduct.

45. That on or about April 24, 2013, the defendant, THE NEW YORK CITY POLICE DEPARTMENT hired the agent(s), servant(s), officer(s), and or employees who engaged in the aforesaid tortious conduct.

46. The aforesaid agent(s), servant(s), officer(s) and or employees continued to be employed by the defendant, THE CITY OF NEW YORK, through, including, and beyond April 24, 2013.

47. The aforesaid agent(s), servant(s), officer(s) and or employees continued to be employed by the defendant, THE NEW YORK CITY POLICE DEPARTMENT, through, including, and beyond April 24, 2013.

48. That on April 24, 2013, up to and including April 25, 2013, the aforesaid agent(s), servant(s), officer(s) and or employees were incompetent and unfit to perform the work required in their capacity of agent(s), servant(s), officer(s) and or employees for the defendant, THE CITY OF NEW YORK.

49. That on April 24, 2013, up to and including April 25, 2013, the aforesaid agent(s), servant(s), officer(s) and or employees were incompetent and unfit to perform the work required in their

capacity of agent(s), servant(s), officer(s) and or employees for the defendant, THE NEW YORK CITY POLICE DEPARTMENT.

50. The defendant, THE CITY OF NEW YORK knew or should have known that a person in the plaintiff's position would be subjected to an unreasonable risk of harm from the aforesaid individuals committing said tortious conduct.

51. The defendant, THE NEW YORK CITY POLICE DEPARTMENT, knew or should have known that a person in the plaintiff's position would be subjected to an unreasonable risk of harm from the aforesaid individuals committing said tortious conduct.

52. The defendant, THE CITY OF NEW YORK, when they hired the agent(s), servant(s), officer(s), and or employees who committed said tortious conduct breached the duty owed to the plaintiff to use reasonable care in hiring them in that they knew or should have known that they were incompetent or unfit for employment. Furthermore, defendant, THE CITY OF NEW YORK, failed to conduct reasonable investigation into the background and character of said agent(s), servant(s), officer(s) and employees.

53. The defendant, THE NEW YORK CITY POLICE DEPARTMENT, when they hired the agent(s), servant(s), officer(s), and or employees who committed said tortious conduct breached the duty owed to the plaintiff to use reasonable care in hiring them in that they knew or should have known that they were incompetent or unfit for employment. Furthermore, defendant, THE NEW YORK CITY POLICE DEPARTMENT, failed to conduct reasonable investigation into the background and character of said agent(s), servant(s), officer(s) and employees.

54. That on or about April 24, 2013, agent(s), servant(s), officer(s) and or employees, of the defendant, THE CITY OF NEW YORK, falsely arrested the plaintiff, wrongfully arrested the plaintiff, wrongfully detained in custody, maliciously prosecuted, wrongfully imprisoned and falsely imprisoned the plaintiff.

55. That on or about April 24, 2013, agent(s), servant(s), officer(s) and or employees, of the defendant, THE NEW YORK CITY POLICE DEPARTMENT, falsely arrested the plaintiff, wrongfully arrested the plaintiff, wrongfully detained in custody, maliciously prosecuted, wrongfully imprisoned and falsely imprisoned the plaintiff.

56. As a direct and proximate result of the defendants' breach of duty in hiring and retaining said agent(s), servant(s), officer(s)

and or employees, the plaintiff sustained serious personal injuries both physical and psychological.

AS AND FOR A FOURTH CAUSE OF ACTION

57. The plaintiff repeats, reiterates and realleges each and every paragraph numbered 1 through 56 inclusive as if more fully set forth at length herein.

58. The acts of the defendant, THE CITY OF NEW YORK, their agent(s), servant(s), officer(s) and or employees described herein were done willfully, maliciously, outrageously, deliberately and purposely with the intention to inflict emotional distress upon the plaintiff and to destroy plaintiff's personal property and to destroy plaintiff's personal possessions, and they were all done in reckless disregard of the probability of causing the plaintiff emotional distress and these acts did in fact result in fear and extreme emotional distress.

59. The acts of the defendant, THE NEW YORK CITY POLICE DEPARTMENT, their agent(s), servant(s), officer(s) and or employees described herein were done willfully, maliciously, outrageously, deliberately and purposely with the intention to inflict emotional distress upon the plaintiff and to destroy plaintiff's personal property and to destroy plaintiff's personal possessions, and they were all done in reckless disregard of the probability of causing the plaintiff emotional distress and these acts did in fact result in fear and extreme emotional distress.

60. As a direct and proximate result of the acts mentioned above, plaintiff was caused to incur severe mental and emotional suffering, fright, anguish, shock, nervousness and anxiety. Plaintiff continues to be fearful, anxious and nervous for which he was required to seek and receive medical treatment.

AS AND FOR A FIFTH CAUSE OF ACTION

61. The plaintiff repeats, reiterates and realleges each and every paragraph numbered 1 through 60 inclusive as if more fully set forth at length herein.

62. Plaintiff was imprisoned and detained without probable cause by the defendant, THE CITY OF NEW YORK, their agent(s), servant(s), officer(s) and or employees, who under the facts available did not have an objective, good faith belief that the plaintiff was guilty of the charges against him.

63. Plaintiff was imprisoned and detained without probable cause by the defendant, THE NEW YORK CITY POLICE DEPARTMENT, their agent(s), servant(s), officer(s) and or employees, who under the facts available did not have an objective, good faith belief that the plaintiff was guilty of the charges against him.

64. As a direct and proximate cause of the false imprisonment, wrongful imprisonment, unjustified false arrest, negligence and wrongful arrest, plaintiff has suffered damages both physical and psychological.

AS AND FOR A SIXTH CAUSE OF ACTION

65. The plaintiff repeats, reiterates and realleges each and every paragraph numbered 1 through 64 inclusive as if more fully set forth at length herein.

66. The defendant, THE CITY OF NEW YORK, their agent(s), servant(s), officer(s) and or employees, falsely imprisoned the plaintiff; condoned the use of excessive force against plaintiff; all with the intent to inflict unnecessary harm against the plaintiff.

67. The defendant, THE NEW YORK CITY POLICE DEPARTMENT, their agent(s), servant(s), officer(s) and or employees, falsely imprisoned the plaintiff; condoned the use of excessive force against plaintiff; all with the intent to inflict unnecessary harm against the plaintiff.

68. Such acts caused both physical and psychological injuries to the plaintiff.

69. Plaintiff alleges that such acts were in violation of his civil rights under the Fourth Amendment of the United States Constitution to be free from unreasonable imprisonment and his right under the Fourteenth Amendment of the United States Constitution to due process of law.

70. Plaintiff's imprisonment was made under the authority of the agent(s), servant(s), officer(s) and or employees, of THE CITY OF NEW YORK.

71. Plaintiff's imprisonment was made under the authority of the agent(s), servant(s), officer(s) and or employees, of THE NEW YORK CITY POLICE DEPARTMENT.

72. Plaintiff further alleges that the violation of his constitutional rights were caused by the implementation of a

custom, policy, or official act of the defendant, THE CITY OF NEW YORK, thereby making THE CITY OF NEW YORK agent(s), servant(s), officer(s) and or employees liable pursuant to 42 U.S.C. Section 1983.

73. Plaintiff further alleges that the violation of his constitutional rights were caused by the implementation of a custom, policy, or official act of the defendant, THE NEW YORK CITY POLICE DEPARTMENT, thereby making THE NEW YORK CITY POLICE DEPARTMENT, agent(s), servant(s), officer(s) and or employees liable pursuant to 42 U.S.C. Section 1983.

AS AND FOR A SEVENTH CAUSE OF ACTION

74. The plaintiff repeats, reiterates and realleges each and every paragraph numbered 1 through 73 inclusive as if more fully set forth at length herein.

75. Pursuant to 42 U.S.C. Section 1983 and 1988 the plaintiffs seek an award of costs and attorney fees incurred in bringing this action.

AS AND FOR A EIGHTH CAUSE OF ACTION

76. The plaintiff repeats, reiterates and realleges each and every paragraph numbered 1 through 75 inclusive as if more fully set forth at length herein.

77. Pursuant to 42 U.S.C. Section 1983, the plaintiff demands an award of punitive damages against the individuals involved in the subject occurrence.

78. The plaintiff has been damaged and injured in his good name and reputation; caused to suffer great humiliation, pain and anguish of mind, and have been injured in his health.

AS AND FOR A NINTH CAUSE OF ACTION

79. The plaintiff repeats, reiterates and realleges each and every paragraph numbered 1 through 77 inclusive as if more fully set forth at length herein.

80. That on or about April 24, 2013, at or about 7:00 P.M., plaintiff JAVIER SILVA, was taken into custody imprisoned, maliciously, violently struck and verbally and physically abused, taken into custody at the aforesaid location, and confined and subject to excessive force by defendant THE CITY OF NEW YORK.

81. That on or about April 24, 2013, at or about 7:00 P.M., plaintiff JAVIER SILVA, was taken into custody imprisoned, maliciously, violently struck and verbally and physically abused and subject to excessive force taken into custody at the aforesaid location, confined and subject to excessive force by defendant THE NEW YORK CITY POLICE DEPARTMENT.

82. That on or about April 24, 2013, at or about 7:00 P.M., it was the intention of defendant THE CITY OF NEW YORK to confine the plaintiff and plaintiff JAVIER SILVA was conscious of such confinement and excessive force and did not consent to such confinement and as such confinement was not privileged.

83. That on or about April 24, 2013, at or about 7:00 P.M., it was the intention of defendant THE NEW YORK CITY POLICE DEPARTMENT to confine the plaintiff and plaintiff JAVIER SILVA was conscious of such confinement and excessive force and did not consent to such confinement and as such confinement was not privileged.

84. That on or about April 24, 2013, the plaintiff was a victim of tortious conduct perpetrated by the defendant THE CITY OF NEW YORK, which tortious conduct consisted of negligence, excessive force, false imprisonment, negligent and intentional infliction of emotional distress, negligent firing and retention and violation of the plaintiff's civil rights, including but not limited to 42 U.S.C. Section 1988.

85. That on or about April 24, 2013, the plaintiff was a victim of tortious conduct perpetrated by the defendant THE NEW YORK CITY POLICE DEPARTMENT, which tortious conduct consisted of negligence, excessive force, false imprisonment, negligent and intentional infliction of emotional distress, negligent firing and retention and violation of the plaintiff's civil rights, including but not limited to 42 U.S.C. Section 1988.

86. At the aforesaid time and place, and at all times pertinent to this action, the defendant THE NEW YORK CITY POLICE DEPARTMENT, was acting within the scope of its employment duties with THE CITY OF NEW YORK.

87. At the aforesaid time and place, and at all times pertinent to this action, the defendant THE NEW YORK CITY POLICE DEPARTMENT, committed the aforesaid tortious conduct that injured the plaintiff acting within the scope of their apparent authority as Police Officers.

88. The tortious conducts that were committed by the defendant THE CITY OF NEW YORK, were egregious and oppressive and characterized

by malicious or wantonness justifying the imposition of punitive damages therefore.

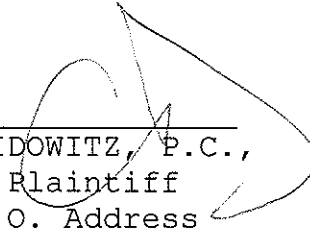
89. The tortious conducts that were committed by the defendant THE NEW YORK CITY POLICE DEPARTMENT, were egregious and oppressive and characterized by malicious or wantonness justifying the imposition of punitive damages therefore.

90. The imposition of punitive damages on the defendant, THE CITY OF NEW YORK, for the egregious tortious conduct of the defendant are justified on the grounds that the defendant THE CITY OF NEW YORK authorized and ratified the conduct or that the defendant was reckless or wanton in retaining and hiring the employees who committed the tort after the knowledge of the employees' proclivities to engage in such conduct.

91. The imposition of punitive damages on the defendant, THE NEW YORK CITY POLICE DEPARTMENT, for the egregious tortious conduct of the defendant are justified on the grounds that the defendant THE NEW YORK CITY POLICE DEPARTMENT authorized and ratified the conduct or that the defendant was reckless or wanton in retaining and hiring the employees who committed the tort after the knowledge of the employees' proclivities to engage in such conduct.

WHEREFORE, plaintiff demands judgment against defendants in an amount in excess of all lower courts which would otherwise have jurisdiction over this matter, together with the costs and disbursements of this action and attorney's fees.

DATED: NEW YORK, NEW YORK
April 11, 2014



CRAIG L. DAVIDOWITZ, P.C.,
Attorney for Plaintiff
Office and P.O. Address
450 Seventh Avenue, Suite 1508
New York, New York 10123
Tel: (212) 378-2051
Fax: (212) 378-2054

ATTORNEY'S VERIFICATION

The undersigned, an attorney admitted to practice in the Courts of the State of New York, affirms under the penalties of perjury:

That deponent is the attorney of record for the plaintiff(s) in the within action; that deponent has read the foregoing **SUMMONS AND VERIFIED COMPLAINT** and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes those to be true. Deponent further states that the reason this verification is made by deponent and not by the plaintiff(s) is that plaintiff(s) reside(s) in a county other than that in which deponent maintains his/her offices.

The grounds for deponent's belief as to all matters not stated upon his/her knowledge are investigations which he/she has made or has caused to be made concerning the subject matter of this action, and statements of parties or witnesses herein.

Dated: New York, New York
April 11, 2014



Craig L. Davidowitz

Index No.:

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

JAVIER SILVA,

Plaintiff,

-against-

**THE CITY OF NEW YORK and THE NEW YORK CITY POLICE
DEPARTMENT,**

Defendants.

SUMMONS AND VERIFIED COMPLAINT

**CRAIG L. DAVIDOWITZ, P.C.
Attorney for Plaintiff
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New York, New York 10123
Tel: (212) 378-2051
Fax: (212)378-2054**